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SUBJECT: GAO LEARNS OF JADE ACT'S IMPACT IN THAILAND

REF: A) 07 BANGKOK 5927 (THAI GEM INDUSTRY BELIEVES) B) 07 BANGKOK 6239 (A BURMESE ROCK) C) 08 BANGKOK 3207 (ORIGIN OF THAI RUBY) D) 08 BANGKOK 3703 (MOST RUBIES SMUGGLED) E) 09 BANGKOK 711 (CHANTABURI ARTISANS LAMENT)

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¶1. (SBU) Summary: A Government Accountability Office (GAO) team visited Bangkok and Chantaburi May 12-15 to investigate the implementation and impact on Thailand of the U.S. Tom Lantos Block the Junta's Anti-Democratic Efforts Act (JADE Act). Private gem dealers claim the JADE Act, which bans the importation of Burmese jadeite and rubies, has resulted in 100,000 layoffs and a 40 percent drop in ruby sales. Gem dealers also maintain that rubies are generally smuggled from Burma with no profits going to the Burmese junta. Gem dealers and the Royal Thai Government (RTG) believe Burmese rubies undergo a "substantial transformation" through processing in Thailand, making Thailand the product's country of origin under WTO rules. RTG officials said Thailand would not support a WTO waiver for the U.S. on the ruby import ban. At this point, however, the RTG has no plans of filing a WTO case against the U.S. End Summary.

¶2. (SBU) Comment: While we cannot verify the statistics cited by gem dealers and they may well be inflated out of self-interest, there is little doubt that the JADE Act has negatively affected the ruby industry in Thailand. The global economic recession has also hit Thai gem and jewelry exports hard, but RTG claims that the JADE Act violates U.S. obligations under the WTO cannot be dismissed. Concerned about plummeting overseas sales for what had been Thailand's third largest export category, yet not wanting to pick a WTO fight with us, the Government hopes that the GAO visit and resulting report will somehow mitigate the effects of the JADE Act's implementation. End comment.

WTO issues and a UN Resolution

¶3. (SBU) Econoff accompanied a GAO team to the Thai Ministry of Commerce (MOC) and Ministry of Foreign Affairs (MFA) on May 13. MOC and MFA officials stated that the RTG has no problem with the motivation behind the JADE Act---punishing the Burmese junta. However, the RTG believes the Act, as it stands, unintentionally but unfairly hurts Thailand in contravention of WTO rules. MOC and MFA officials stressed that if the U.S. were to seek a WTO waiver,

Thailand, with the probable support of other countries, would have no choice but to oppose it. MFA officials also indicated that the very fact that the legislation contains a section requiring the U.S. President to seek a waiver indicates that the USG recognizes the JADE Act goes against WTO rules.

¶4. (SBU) MOC and MFA officials stated Thailand is not currently considering initiating a WTO case against the U.S. even though the RTG maintains that rubies undergo a "substantial transformation" in Thailand and that, under WTO rules of origin, the rubies are Thai products. RTG officials stated a preference to work through diplomatic channels to seek a resolution and viewed the GAO visit as an opportunity to get the U.S. Congress to revisit the act.

¶5. (SBU) With regard to the idea of seeking a UN Resolution calling for the establishment of a Kimberly-like process for rubies, MFA and MOC officials expressed interest in the idea, but admit they have not explored or fully comprehend how such a system would work.

Similarly, the Thai Gem and Jewelry Traders Association (TGJTA) does not oppose a Kimberly-like scheme for rubies, but does not believe such a system would work. TGJTA members believe the diamond industry is much more regulated and involves, in general, big corporations and their vendors whereas rubies involve countless small-time dealers and traders. The RTG also remains open to implementing a government-backed certification scheme for rubies, but MOC officials stated they do not have the ability to verify a ruby's country of origin because they lack the technical skills to do so.

The Impact of the Jade Act

¶6. (SBU) Econoff and the GAO team met with several board members of the TGJTA on May 14. TGJTA agreed with the intention of the JADE Act, but argued that the law harms Thailand and does not punish the Burmese junta. TGJTA claims upwards of 90 percent of rubies from

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Burma are now smuggled across porous borders in northern Thailand. TGJTA believes that, typically, individuals or families---often ethnic minorities---in Burma mine for rubies, then pass them on to middlemen who are often friends or relatives. These middlemen smuggle the rubies to Thailand. TGJTA officials asserted trade in black market rubies does not benefit the junta as smugglers do not pay taxes or report their sales. However, TGJTA officials did admit that smugglers may pay-off some Burmese officials along the way to facilitate smuggling and that miners may pay the Burmese government for rights to mine.

¶7. (SBU) Post-JADE Act, the TGJTA claims that ruby sales have dropped about 40 percent worldwide. While TGJTA readily admits the current economic downturn has contributed to a drop in sales, the association points out sales in other gems have not dipped as substantially. This, according to TGJTA, indicates the JADE Act is the primary reason for the plunge in ruby sales. TGJTA also states that trade in rubies to the U.S. has essentially ceased as gem dealers have decided to stay away from rubies. The inability to trade in rubies has resulted in Thailand accumulating a back-stock of up to \$50 million of the stone. (Note: Since Thai customs data does not break down gem exports down to individual types, it is difficult to verify TGJTA's claims.)

¶8. (SBU) TGJTA also reports that about 100,000 people have been laid off in the ruby industry since the passage of the JADE Act. While TGJTA officials concede the economic crisis has played a big role in the lay-offs, they believe anecdotal evidence from association members and Chantaburi artisans indicate that the JADE Act is the main culprit (see ref E). If the JADE Act continues, TGJTA foresees Chantaburi's ruby industry being devastated within a few years. TGJTA believes China will supercede Thailand as the center for ruby processing within three to five years. Because China has a large domestic market, Chinese dealers do not worry about the JADE Act.

Burmese or Not Burmese?

¶9. (SBU) Verifying a ruby's country of origin is more of an art than a science according to two gem laboratories that the GAO team

and econoff visited on May 14. Officials at the Asian Institute of Gemological Sciences, a vocational college that also runs a lab, and the Gemological Institute of Thailand demonstrated sophisticated machinery that analyzes a stone's properties. However, even with advanced technology, determining a ruby's country of origin is an educated guess at best. In addition, the burden of documenting each stone's country of origin would be cost prohibitive (see ref C and D).

¶10. (SBU) TGTJA also believes that rubies are "substantially transformed" in Thailand through processing. TGTJA estimates that about 80-90 percent of a ruby's value lies in processing and setting. A raw ruby stone's inherent value is only a small fraction of the value of the finished product. For example, the price of purchasing a rough piece of ruby is about one-tenth of the final retail price of a finished piece of ruby set in a ring.

¶11. (SBU) According to TGTJA, African rubies of varying quality are gaining an increasing foothold in Thailand. While Burmese rubies have traditionally been of higher quality and famous for their "pigeon blood" color, African rubies are becoming increasingly desirable. While a trained gemologist with advanced technology may be able to distinguish between African and Burmese rubies, the time and costs involved are prohibitive. Despite the similarities, Thai artisans prefer working with Burmese stones because of the skill they have developed and perfected in working with those stones.

Chantaburi

¶12. (SBU) The GAO team traveled to Chantaburi, about 150 miles east of Bangkok on May 15. Chantaburi has become Thailand's center for ruby treating, heating, processing, polishing, and cutting. In years past, Chantaburi had its own ruby producing mines, but these have largely been mined out. However, the skills artisans in the area possess have enabled the town to become the world's leader in the art of ruby processing (see ref A and E).

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¶13. (SBU) The Chantaburi Gem and Jewelry Traders Association (CGJTA) took the GAO team on a tour of area factories. Many of these factories are mom-and-pop operations, with factories literally above or in residences. The GAO team witnessed the complete process of ruby finishing. An unfinished stone resembled a dirty pebble and, to an untrained eye, would be judged valueless. CGJTA members state that artisans in the area have perfected and keep secret their heating methods, a key component of bringing out a ruby's color and quality. In addition, cutting, polishing, and treating a ruby is a labor intensive process requiring skill and experience. Cutting or polishing the stone at the wrong angle or facet could destroy a stone's value.

¶14. (SBU) The GAO team also toured the Chantaburi market where rubies and gems are sold. The market occupies a few blocks and buyers generally set up tables and post what they want to purchase on sheets of paper. Sellers move from table to table trying to hawk their wares. The CGJTA pointed out how traffic at the market had decreased significantly since the JADE Act came into force. Many sellers said that they could not sell their goods and that the JADE Act had depressed ruby prices to such low levels that some choose to hold on to their merchandise. The market demonstrated how prevalent the ruby industry runs in Chantaburi-- a whole cottage industry has developed around rubies. CGJTA claims that probably half the population is involved in the ruby trade, whether as owners, brokers, middlemen, or factory craftspeople.

ENFORCING THE JADE ACT WILL BE DIFFICULT

¶15. (SBU) The GAO team met with Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agents at post. CBP and ICE believed enforcing the JADE Act could be difficult because of the problems involved in producing credible documentation demonstrating a ruby's country of origin.

¶16. The GAO team also visited Hong Kong, Rangoon, and Chiangmai.

¶17. The GAO team did not have an opportunity to clear this message prior to departure from Post.

JOHN